

## Response to Welsh Government's Consultation on the draft Social Partnership and Public Procurement (Wales) Bill

### Submitted by Swansea Law Clinic

*Question 15: What is your view on the provisions set out in the draft Bill concerning:*

- a. Membership of the Social Partnership Council;*
- b. The proposed nomination process?*

(a) This submission is being made by the Swansea Law Clinic, which is part of the Hillary Rodham Clinton School of Law at Swansea University.

The Clinic is a *pro bono* service and has been operating year-round since March 2017 when a Miscarriage of Justice Project was established. Since then we have been running projects in prison law, legal aid exceptional case funding, a Litigant Helpdesk in Swansea Civil Justice Centre, and, since November 2017, we have been providing an initial advice and assistance service.

We aim to complement and not replace existing legal advice services, including trade unions, as well as complementing provision that is eligible for legal aid.

Since the Clinic was founded almost four years ago, we have assisted through our legal advice and public legal education programmes over 700 people.

We have found that demand for employment advice has increased during the Covid 19 pandemic. In cases of employment and equality advice we routinely ask clients if they are members of a trade union and would refer to their union with an explanation that a union may casework for them, as opposed to the initial advice and assistance we provide. This is common practice amongst the free advice sector.

However, we find that many of our clients are not members of a trade union, and we are keen to see these people represented on the Social Partnership Council.

We have had clients who have not realised that their employment status may be challenged, and that their status depends on a factual analysis of their situation and not what is stated in their contracts of employment even if it states they are independent contractors. We believe that requests for advice on employment status will increase as a result of the UK Supreme Court decision in *Uber BV and others v Aslam and others* [2021] UKSC 5.

In addition, there are many working in the 'gig' economy - the prevalence of short-term contracts or freelance work as opposed to permanent jobs – who, for various reasons, find it hard to unionise but often come to the free advice sector for employment advice.

There are many in these groups who will not be able to afford to instruct a solicitor and legal aid will only be available on the basis of exceptional case funding otherwise employment law is out of scope of legal aid.

We also believe that the current proposed structure for the Social Partnership Council does not fully make use of existing structures, particularly the National Advice Network and Regional Advice Networks. The latter have access to a lot of data on the non-unionised employed sector's advice needs and how this has flexed during the Covid 19 pandemic, which will be useful to inform the Social Partnership Council's deliberations.

(b) We therefore believe that the First Minister should appoint one member of the Social Partnership Council having first sought the views of the National Advice Network in order for the free advice sector to have a say in the Social Partnership Council's work. .

This will enhance the Council's work particularly in relation to the Fair Work objectives of:

- a. Improving mental and physical health.
- b. Ensuring a safe working environment.
- c. Reducing inequality and widening access to employment.
- d. Reducing poverty and ensuring fair reward.
- e. Increasing workplace and civic participation...
- h. Improving local and regional economies i. Achieving a stronger, modernised, more inclusive economy\*

It will also address one of the major challenges to the Welsh economy which is "unstable and insecure employment."\*\*

A member of the Social Partnership Council nominated after taking the views of the National Advice Network will also create greater channels of communication between existing structures. So, it would aid communication not only between the Social Partnership Council and the National Advice Network but also between the Social Partnership Council and the Third Sector Partnership Council.

\*Welsh Government, *Consultation Document, Draft Social Partnership and Public Procurement (Wales) Bill (2021)*, pp. 9 – 10

\*\* Ibid p. 14